United Nations S/2012/979

Security Council

Distr.: General
16 January 2013

Original: English

Letter dated 31 December 2012 from the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo, containing an account of the activities of the Committee from 1 January to 31 December 2012 (see annex). The report, which was adopted by the Committee, is being submitted in accordance with the note by the President of the Security Council of 29 March 1995 (S/1995/234).

In this connection, I would appreciate it if the present letter and its annex were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Agshin **Mehdiyev**
Chair

13-20770 (E) 290113

Please recycle

Annex

Report of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo

A. Introduction

1. The present report of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo covers the period from 1 January to 31 December 2012.

2. In 2012, the Bureau of the Committee consisted of Agshin Mehdiyev (Azerbaijan) as Chair, with the delegations of Morocco and Pakistan serving as Vice-Chairs.

B. Background

3. By paragraph 20 of its resolution 1493 (2003), the Security Council imposed an arms embargo on all foreign and Congolese armed groups operating in the territory of North and South Kivu and Ituri. In paragraph 19 of the resolution, the Council requested the Secretary-General to report to the Council regularly on the position of the movements and armed groups and on information concerning arms supply and the presence of foreign military, especially by monitoring the use of landing strips in North and South Kivu and Ituri.

4. By its resolution 1533 (2004), the Security Council established the Committee to undertake, inter alia, the following tasks: (a) to seek from States information regarding actions taken by them to implement the arms embargo; (b) to examine and take action on alleged violations of the arms embargo; (c) to report regularly to the Council, in particular on ways to strengthen the effectiveness of the arms embargo; (d) to consider a list of those found to have violated the measures imposed by the Council in its resolution 1493 (2003) with a view to submitting recommendations to the Council for possible future measures; and (e) to receive notifications in advance from States made under paragraph 21 of resolution 1493 (2003) and to decide, if need be, upon any action to be taken.

5. By paragraph 10 of its resolution 1533 (2004), the Security Council requested the Secretary-General, in consultation with the Committee, to establish a group of experts to monitor the arms embargo. The Group of Experts was re-established or extended for 13 successive mandates pursuant to resolutions 1552 (2004), 1596 (2005), 1616 (2005), 1654 (2006), 1698 (2006), 1771 (2007), 1799 (2008), 1807 (2008), 1857 (2008), 1896 (2009), 1952 (2010), 2021 (2011) and 2078 (2012).

6. By its resolution 1596 (2005), the Security Council extended the arms embargo to any recipient in the territory of the Democratic Republic of the Congo except the national army and police, among others, under the conditions set out in the resolution. The Council also imposed travel restrictions and an assets freeze on persons and entities acting in violation of the arms embargo. By the same resolution, the Council decided to provide the Group of Experts with a fifth finance expert so that it could fulfil the broader mandate entrusted to it in connection with the measures set out in paragraphs 6, 10, 13 and 15 of the resolution.

7. By its resolution 1616 (2005), the Security Council renewed the arms embargo, travel restrictions and assets freeze until 31 July 2006. By its resolution 1649 (2005), the Council extended the scope of the travel restrictions and assets freeze to political and military leaders of foreign armed groups operating in the Democratic Republic of the Congo and Congolese militias receiving support from abroad that impede the participation of their combatants in disarmament, demobilization and reintegration processes. The Council decided that those measures should take effect on 15 January 2006, unless the Secretary-General informed the Council that the process of disarmament of those foreign armed groups and Congolese militias operating in the Democratic Republic of the Congo was being completed.

8. By its resolution 1698 (2006), the Security Council renewed until 31 July 2007 the arms embargo, as well as the travel and financial restrictions on individuals designated by the Committee in accordance with the criteria set out in its resolutions 1596 (2005) and 1649 (2005). Also in its resolution 1698 (2006), the Council extended the travel and financial measures to political and military leaders recruiting or using children in armed conflict and to individuals committing serious violations of international law involving the targeting of children in situations of armed conflict. In addition to requesting the Group of Experts to carry out the tasks outlined in resolutions 1533 (2004), 1596 (2005) and 1649 (2005), the Council requested the Group to recommend feasible and effective measures the Council might impose to prevent the illegal exploitation of natural resources financing armed groups.

9. By its resolution 1771 (2007), the Security Council decided to renew the measures on arms imposed under resolutions 1493 (2003) and 1596 (2005) until 15 February 2008. In connection with the arms embargo, the Council decided to renew the exemptions for units of the army and police of the Democratic Republic of the Congo, provided that the conditions specified in paragraph 2 of the resolution were met. In addition, in paragraph 3 of its resolution 1771 (2007), the Council decided to authorize an exemption for technical training and assistance agreed to by the Government of the Democratic Republic of the Congo and intended solely to support units of the national army and police that were in the process of integration in the provinces of North and South Kivu and in the Ituri district.

10. By paragraph 4 of its resolution 1771 (2007), the Security Council decided that the conditions specified in paragraph 4 of resolution 1596 (2005), as now applied to the Government of the Democratic Republic of the Congo, should apply to supplies of arms and related materiel, as well as technical training and assistance consistent with the exemptions set out in paragraphs 2 and 3 of resolution 1771 (2007), and noted in that regard that States had an obligation to notify the Committee in advance of such supplies. The Council also decided to renew the measures on transport and travel and finance in accordance with resolutions 1596 (2005), 1649 (2005) and 1698 (2006), and to review, by no later than 15 February 2008, the measures concerning the arms embargo and the transport, travel and financial bans, in the light of the consolidation of the security situation and the processes of integration of armed forces and reform of the national police in the Democratic Republic of the Congo.

11. By paragraph 1 of its resolution 1799 (2008), the Security Council decided to extend until 31 March 2008 the measures on arms imposed by paragraph 20 of

resolution 1493 (2003) as amended and expanded by paragraph 1 of resolution 1596 (2005).

12. By paragraph 2 of its resolution 1807 (2008), the Security Council decided that the measures on arms and technical training no longer applied to the Government of the Democratic Republic of the Congo. By paragraph 1 of the same resolution, the Council decided that, for a period ending on 31 December 2008, all States shall take the necessary measures to prevent the direct or indirect supply, sale or transfer, from their territories or by their nationals, or using their flag vessels or aircraft, of arms and any related materiel, and the provision of any assistance, advice or training related to military activities, including financing and financial assistance, to all non-governmental entities and individuals operating in the territory of the Democratic Republic of the Congo. By paragraph 5 of the resolution, the Council reiterated the obligation of supplier States to notify the Committee of all shipments of arms and related materiel, as well as the provision of technical training and assistance to the Democratic Republic of the Congo. By paragraph 13 (e), the Council extended the travel and financial measures to individuals operating in the Democratic Republic of the Congo and committing serious violations of international law involving the targeting of children or women in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement.

13. By its resolution 1857 (2008), the Security Council decided to extend the sanctions regime until 30 November 2009. By paragraphs 4 (f) and (g) of the same resolution, the Council decided that the assets freeze and travel ban would also apply to individuals obstructing the access to or distribution of humanitarian assistance in the eastern part of the Democratic Republic of the Congo, as well as individuals or entities supporting the illegal armed groups in that part of the country through the illicit trade in natural resources. By paragraphs 6 (a) and (b) of the same resolution, the Council decided to expand the mandate of the Committee to include the following tasks: (a) to review regularly the list of individuals and entities subject to the travel ban and assets freeze and adopted by the Committee on 1 November 2005; and (b) to promulgate guidelines in order to facilitate the implementation of the measures imposed by the resolution and keep them under active review as may be necessary.

14. By its resolution 1896 (2009), the Security Council decided to extend until 30 November 2010 the sanctions regime. By paragraph 4 (c) of the resolution, the Council decided to expand the mandate of the Committee to include the following task: to specify the necessary information that Member States should provide in order to fulfil the notification requirement set out in paragraph 5 of resolution 1807 (2008) and to circulate this among Member States.

15. By paragraph 7 of its resolution 1896 (2009), the Security Council also expanded the mandate of the Group of Experts to include the following task: to produce, taking into account paragraph 4 (g) of resolution 1857 (2008), drawing inter alia on their reports and taking advantage of work done in other forums, recommendations to the Committee for guidelines for the exercise of due diligence by the importers, processing industries and consumers of mineral products regarding the purchase, sourcing (including steps to be taken to ascertain the origin of mineral products), acquisition and processing of mineral products from the Democratic Republic of the Congo.

16. By paragraph 14 of its resolution 1896 (2009), the Security Council called upon Member States to take measures to ensure that importers, processing industries and consumers of Congolese mineral products under their jurisdiction exercise due diligence on their suppliers and on the origin of the minerals they purchase. By paragraph 17 of the same resolution, the Council recommended that Member States, particularly those in the Great Lakes region, regularly publish full import and export statistics for gold, cassiterite, coltan and wolframite.

17. By paragraphs 1 and 2 of its resolution 1952 (2010), the Security Council decided to renew until 30 November 2011 the measures on arms and transport imposed respectively by paragraph 1 and paragraphs 6 and 8 of resolution 1807 (2008). The Council also renewed for the same period the financial and travel measures imposed by paragraphs 9 and 11 of resolution 1807 (2008), and reaffirmed the provisions of paragraphs 10 and 12 of that resolution regarding the individuals and entities referred to in paragraph 4 of resolution 1857 (2008).

18. By paragraph 5 of its resolution 1952 (2010), the Security Council requested the addition to the Group of Experts of a sixth expert, on natural resources issues. By paragraph 6 of the same resolution, the Council requested the Group to focus its activities in areas affected by the presence of illegal armed groups, including North and South Kivu and Orientale Province, as well as on regional and international networks providing support to illegal armed groups, criminal networks and perpetrators of serious violations of international humanitarian law and human rights abuses, including those within the national armed forces, operating in eastern Democratic Republic of the Congo. The Council also requested the Group to evaluate the impact of due diligence guidelines referred to in the resolution.

19. By paragraph 7 of its resolution 1952 (2010), the Security Council supported taking forward the recommendations of the Group of Experts on guidelines for due diligence for importers, processing industries and consumers of Congolese mineral products, as set out in its final report of 29 November 2010 (S/2010/596).

20. By paragraph 9 of its resolution 1952 (2010), the Security Council decided that the Committee, in determining whether to designate an individual or entity supporting the illegal armed groups in the eastern part of the Democratic Republic of the Congo through the illicit trade in natural resources, should consider, among other things, whether the individual or entity has exercised due diligence consistent with the steps set out in the resolution.

21. By its resolution 2021 (2011), the Security Council decided to renew until 30 November 2012 the measures on arms and transport, as well as the financial and travel measures imposed by resolution 1807 (2008), and reaffirmed the provisions of paragraphs 10 and 12 of that resolution regarding the individuals and entities referred to in paragraph 4 of resolution 1857 (2008). By paragraph 4 of its resolution 2021 (2011), the Council requested the Group of Experts to fulfil its mandate as set out in paragraph 18 of resolution 1807 (2008) and expanded by paragraphs 9 and 10 of resolution 1857 (2008).

22. By reaffirming paragraphs 6 to 13 of resolution 1952 (2010) in paragraph 5 of its resolution 2021 (2011), the Security Council continued to support the taking forward of the recommendations of the Group of Experts on guidelines for due diligence for importers, processing industries and consumers of Congolese mineral products. Also by paragraph 5 of resolution 2021 (2011), the Council requested the

Group of Experts to include in its evaluation of the impact of due diligence a comprehensive assessment on the economic and social development of the relevant mining areas in the Democratic Republic of the Congo.

23. By paragraph 6 of its resolution 2021 (2011), the Security Council called on all States to assist the Democratic Republic of the Congo and the countries in the Great Lakes region in the implementation of the guidelines referred to above. By paragraph 7, the Council encouraged all States to continue to raise awareness of the guidelines, in particular in the gold sector, as part of broader efforts to mitigate the risk of further financing armed groups and criminal networks within the Armed Forces of the Democratic Republic of the Congo.

24. By paragraph 8 of the same resolution, the Security Council encouraged the Democratic Republic of the Congo and the States in the Great Lakes region to require their customs authorities to strengthen their control on exports and imports of minerals from the Democratic Republic of the Congo. By paragraph 9, the Council recommended that all States, particularly those in the region, enhance information sharing and joint action at the regional level to investigate and combat regional criminal networks and armed groups involved in the illegal exploitation of natural resources.

25. By its resolution 2078 (2012), the Security Council decided to renew until 1 February 2014 the arms, transport, financial and travel measures imposed by resolution 1807 (2008) and reaffirmed the provisions of paragraphs 10 and 12 of that resolution, as well as the provisions of paragraphs 10 and 12 of resolution 1807 (2008). By paragraph 5 of resolution 2078 (2012), the Council extended until 1 February 2014 the mandate of the Group of Experts established pursuant to resolution 1533 (2004), as set out in paragraph 18 of resolution 1807 (2008) and expanded by paragraphs 9 and 10 of resolution 1857 (2008). By paragraph 20 of resolution 2078 (2012), the Council expressed its full support to the Group, called for enhanced cooperation among all States, particularly those in the region, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and the Group of Experts, and reiterated its demand that all parties and all States ensure the safety of the members and support staff of the Group.

26. By paragraph 4 of its resolution 2078 (2012), the Security Council decided that the financial and travel measures referred to in paragraph 3 of the same resolution should apply to, among others: individuals or entities acting on behalf of or at the direction of a designated individual or entity owned or controlled by a designated individual (para. 4 (h)); and individuals or entities who plan, sponsor or participate in attacks against MONUSCO peacekeepers (para. 4 (i)). By paragraph 6 of the resolution, the Council strongly condemned the M23 and all its attacks on the civilian population, MONUSCO peacekeepers and humanitarian actors, as well as its abuses of human rights. The Council further condemned the attempts by the M23 to establish an illegitimate parallel administration and reiterated that those responsible for crimes and human rights abuses would be held accountable. By paragraph 7, the Council demanded that the M23 and all other armed groups, including the Democratic Forces for the Liberation of Rwanda (FDLR) and the Lord's Resistance Army, cease immediately all forms of violence, release immediately all child soldiers and permanently lay down their arms.

27. By paragraph 8 of its resolution 2078 (2012), the Security Council expressed deep concern at reports indicating that external support continues to be provided to the M23 and reiterated its demand that any and all outside support to the M23 cease immediately. By paragraph 9, the Council expressed its intention to consider targeted sanctions against the leadership of the M23, those providing external support to the M23 and those acting in violation of the sanctions regime and the arms embargo. By paragraph 11, the Council reiterated its call on the International Conference on the Great Lakes Region to monitor and inquire into reports and allegations of outside support and supply of equipment to the M23 and encouraged MONUSCO, in coordination with members of the Conference, to participate, as appropriate, in the activities of the Expanded Joint Verification Mechanism.

28. By paragraph 14 of its resolution 2078 (2012), the Security Council welcomed the measures taken by the Government of the Democratic Republic of the Congo to implement the due diligence guidelines on the supply chain of minerals. By paragraph 16, the Council reaffirmed the provisions of paragraphs 6 to 13 of resolution 1952 (2010) and requested the Group of Experts to continue to study the impact of due diligence. By paragraph 17, the Council reiterated its call to the Democratic Republic of the Congo and States in the Great Lakes region to require their customs authorities to strengthen their control on exports and imports of minerals from the Democratic Republic of the Congo and to cooperate to combat regional criminal networks and armed groups involved in the illegal exploitation of natural resources.

C. Summary of the activities of the Committee

29. Over the course of 2012, the Committee carried out its regular mandate regarding the receipt and circulation of notifications conveyed by Member States, in pursuance of paragraph 5 of resolution 1807 (2008), receiving 39 such notifications. The Committee received a total of 74 communications from Member States and United Nations entities, circulated 32 notes to members of the Committee and issued 69 official communications.

30. During the reporting period, the Committee held informal consultations on 2 March, 13 June, 28 August and 21 November 2012. On 2 March, the Group of Experts presented its workplan to the Committee, which provided its feedback. Also on 2 March, the Committee received a briefing from the Special Representative of the International Criminal Police Organization (INTERPOL) to the United Nations, following which the Committee considered and approved procedures for cooperation among the Committee, INTERPOL and the Group of Experts. In line with those procedures, the Committee will submit requests for the issuance and circulation of INTERPOL-United Nations Security Council Special Notices.

31. On 23 April, the Chair of the Committee circulated a letter dated 18 April from the Special Representative of the Secretary-General on Sexual Violence in Conflict, in connection with the recommendations she had made at a briefing to the Committee on 6 December 2011. In her letter, the Special Representative recalled her recommendation that the Committee consider proposing a unit commander of an armed group for targeted sanctions.

32. On 13 June, the Group of Experts briefed the Committee on the main findings contained in its interim report submitted pursuant to Security Council resolution

2021 (2011) (see S/2012/348). The Committee considered the recommendations contained in the report. During the consultations of the Council of 26 June, the Chair of the Committee provided an overview of the interim report and a summary of the discussions held by the Committee on 13 June 2012. Pursuant to decisions taken by the Committee in connection with the recommendations contained in the interim report, the Committee addressed letters on 17 July 2012 to the Under-Secretary-General for Peacekeeping Operations and the Permanent Representative of the Democratic Republic of the Congo.

33. On 14 June, the Chair circulated a letter dated 14 June from the Coordinator of the Group of Experts, who reiterated the intention of the Group to provide a document to the Committee concerning violations of the arms embargo and sanctions regime by the Government of Rwanda, to be submitted as an addendum to the interim report.

34. In a letter dated 26 June 2012 addressed to the President of the Security Council, the Chair of the Committee transmitted the addendum to the interim report of the Group of Experts concerning violations of the arms embargo and sanctions regime by the Government of Rwanda (S/2012/348/Add.1). On 31 July, the Chair circulated a letter dated 27 July 2012 from the Minister for Foreign Affairs and Regional Cooperation of Rwanda conveying the response of the Government of Rwanda to the addendum. In her letter, the Minister requested a meeting with the Committee on or after 20 August 2012 to formally present the Rwandan response and to address any questions that the Committee might have.

35. On 3 August, the Chair circulated a letter dated 2 August 2012 from the Coordinator of the Group of Experts transmitting the formal response of the Government of Rwanda to the addendum, as presented orally to members of the Group during their visit to Kigali from 23 to 25 July 2012. On 8 August, the acting Chair of the Committee circulated a letter dated 7 August 2012 from the Coordinator of the Group of Experts conveying a report on continued violations of the arms embargo and sanctions regime by the Government of Rwanda.

36. On 28 August, the Committee, pursuant to the above request from the Minister for Foreign Affairs and Regional Cooperation of Rwanda, heard statements by the adviser on defence and security to the President of Rwanda regarding the formal response of the Government of Rwanda to the addendum to the interim report of the Group of Experts; by the Minister for Foreign Affairs, International Cooperation and Francophone Affairs of the Democratic Republic of the Congo, in connection with the addendum; and by the Coordinator of the Group of Experts on the Democratic Republic of the Congo, who provided an update to the addendum.

37. On 5 September, the Chair circulated a letter dated 30 August 2012 from the focal point on de-listing concerning a request for de-listing submitted on 17 May 2012 by the lawyer of Floribert Ndjabu Ngabu. In a letter dated 23 October 2012 addressed to the focal point, the Chair noted that the process for considering the de-listing request had been completed and that the name of Mr. Ngabu (reflected as Floribert Ngabu Njabu) remained on the list.

38. On 2 October, the Chair circulated a letter dated 2 October from the Coordinator of the Group of Experts transmitting the assessment of the Group of the rebuttal of the Government of Rwanda to the addendum. On 5 October, the Chair

circulated a letter dated 5 October from the Coordinator of the Group of Experts conveying an update on arms embargo violations and M23 activities.

39. In a letter dated 12 October 2012 addressed to the Permanent Representative of Rwanda, the Chair noted that the Committee had encouraged the Government of Rwanda to meet with the Group of Experts on 13 or 14 October 2012 to discuss some of the conclusions reached by the Group in fulfilment of the commitment it had made during its official visit to Kigali from 23 to 25 July. In response, the Chair of the Committee received letters from the Permanent Representative of Rwanda dated 9 October, 16 October and 9 November proposing a venue for the meeting and the composition of the Group in attendance.

40. On 10 October, the Chair circulated a letter dated 10 October from the Minister for Foreign Affairs and Regional Cooperation of Rwanda requesting that the Committee consider the Rwandan responses to the addendum, delay the issuance of the final report of the Group of Experts and undertake an examination of the composition of the Group, in particular with regard to its Coordinator. On 13 October, the Chair circulated a letter dated 12 October from the Coordinator of the Group of Experts regarding the confidentiality of the communications of the Group and the security of its Congolese collaborators following its departure from the Democratic Republic of the Congo.

41. On 12 November, the Chair circulated a letter dated 9 November from the Permanent Representative of Rwanda in connection with the final report of the Group of Experts. On 12 November, the Group presented to the Committee its final report (S/2012/843), submitted pursuant to resolution 2021 (2011), and the Committee considered the recommendations contained therein.

42. Also on 12 November, the Committee added the name of one individual (Sultani Makenga)[1] to the list of individuals and entities subject to the travel ban and assets freeze imposed by paragraphs 13 and 15 of Security Council resolution 1596 (2005) and renewed by paragraph 4 of resolution 2078 (2012). On 30 November, the Committee added the names of two other individuals (Baudoin Ngaruye Wa Myamuro and Innocent Kaina) to the list; both were cited in the final report of the Group of Experts.[2]

43. On 21 November, the Chair of the Committee briefed the Security Council during informal consultations on the final report of the Group of Experts, then highlighted the main points of the deliberations held by the Committee during its meeting on 12 November.

44. On 27 November, the Chair circulated a letter dated 26 November from the Coordinator of the Group of Experts enclosing a report on external support to the M23 during the recent M23 offensive in Goma. By his letter dated 30 November addressed to the Chair of the Committee, the Permanent Representative of Rwanda expressed views in connection with the letter of the Coordinator dated 26 November.

---

[1] Additional information is available from http://www.un.org/News/Press/docs//2012/sc10812.doc.htm

[2] Additional information is available from http://www.un.org/News/Press/docs//2012/sc10842.doc.htm

45. On 28 November, the Chair circulated a letter from the Coordinator of the Group of Experts. In the letter, the Group addressed in writing some of the issues that had been raised by the Prime Minister of Uganda, Amama Mbabazi, in his letter to the Secretary-General of 23 October 2012.

46. On 21 December, in connection with the recommendations contained in the final report of the Group of Experts, the Committee transmitted letters to the Executive Secretary of the International Conference on the Great Lakes Region, the Permanent Representatives to the United Nations of Burundi, the Democratic Republic of the Congo, Rwanda, Uganda and the United Arab Emirates, the Special Representative of the World Bank to the United Nations, the International Tin Research Institute, the Tantalum-Niobium International Study Center, the Head of the North Kivu Mineral Traders Association and the Electronic Industry Citizenship Coalition/Global Sustainability Initiative. The Committee also agreed to issue a press release and a note verbale in connection with the final report.

47. The Chair circulated two letters from the Under-Secretary-General for Political Affairs. In the letter dated 12 December, five experts were proposed as candidates to serve as members of the Group of Experts, whose mandate had been extended pursuant to Security Council resolution 2078 (2012); the candidacy of an additional expert was proposed in the letter dated 20 December. On 19 December, the Chair circulated a letter dated 19 December from the Permanent Representative of Rwanda in connection with the proposed candidacies.

48. On 31 December, the Committee added the names of two individuals (Eric Badege and Jean-Marie Runiga) and two entities (FDLR and M23) to the list of individuals and entities subject to the travel ban and assets freeze.

49. Over the course of 2012, the Committee received two reports from Member States (Brazil and Luxembourg) pursuant to paragraph 19 of resolution 2021 (2011), by which the Security Council called upon Member States to report to the Committee on the actions they had taken to implement the measures imposed by paragraphs 1, 2 and 3 of the resolution (see S/AC.43/2012/1 and S/AC.43/2012/2).